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**CC:**  
**Subject:** Bloomberg News Service (2-1) Tainted-Well Lawsuits Mount Against Gas Frackers Led by Cabot

# Tainted-Well Lawsuits Mount Against Gas Frackers Led by Cabot

*By Jim Snyder - Jan 31, 2012*

For 36 years, Norma Fiorentino drew water from a well near her home in Dimock, Pennsylvania. “It was the best water in town,” she says.

Then on Jan. 1, 2009, she says her well blew up.

State regulators later blamed natural gas drilling by Cabot Oil & Gas Corp. for elevating methane levels in Dimock wells. Fiorentino and her neighbors sued, alleging Cabot’s activities caused contamination and, in Fiorentino’s case, an explosion that cracked a concrete cap into three pieces. Cabot has denied responsibility.

The Dimock case, in federal court in Scranton, Pennsylvania, is among a batch of claims that aim to put hydraulic fracturing, the process that injects a mix of water, sand and chemicals underground to free gas trapped there, on trial. The suits could lead to payouts to plaintiffs and stricter government regulations, raising costs on an industry President Barack Obama says can boost the economy.

“The plaintiffs bar is always looking for the next big thing,” said Jennifer Quinn-Barabanov, a partner at Washington- based Steptoe & Johnson LLP, which has represented oil and gas companies. “There were a number of lawsuits filed, and now everyone is kind of waiting and seeing.”

## No Bounty Yet

The holdup is that plaintiffs’ lawyers haven’t been able to prove that chemicals injected thousands of feet underground migrate upward into drinking aquifers located just a few hundred feet below the surface, Quinn-Baranov said

That’s kept fracking from becoming the bounty for plaintiff’s attorneys that, say, methyl tertiary-butyl ether, or MTBE, has been, she said. That gasoline additive has leaked into drinking water sources, leading to multimillion dollar settlements against companies including Chevron Corp. (CVX) and BP Plc (BP).

Stuart Smith, a New Orleans-based plaintiffs’ attorney, said the number of cases will increase as fracking expands into more populated areas and complaints grow. More drilling may also create new routes for the chemicals to migrate, he said.

“Anyone that tells you this is not very risky and dangerous operation is not telling you the truth,” Smith said in an interview. “You have a wildcat mentality where people are out there just fracking away.”

## More Analysis Needed

Tighter regulations, including more analysis of what lies between the shale that's being fracked and the drinking wells above, is needed to ensure no pathways could be created, Smith said.

Whether fracking chemicals are reaching groundwater is "where the real rub is," said Gregory Hoffnagle, a New York- based attorney for Edwards Wildman Palmer LLP, in an interview.

At least 23 cases involving fracking have been filed since August 2009 by landowners from Arkansas to New York, according to an analysis by Fulbright & Jaworski LLP, a Houston-based firm.

Besides Cabot, Chesapeake Energy Corp. (CHK) and Southwestern Energy Co. (SWN) have faced lawsuits claiming harm, according to the summary.

In December, Chesapeake settled a lawsuit by paying \$15,000 to two Texas landowners who claimed the company polluted their well, Jim Gipson, a spokesman for the company, said in an e- mail.

Southwestern denies claims made by families in Susquehanna County, Pennsylvania, that the company's drilling contaminated their wells. That case is still active.

## Air, Water Impact

The allegations in the lawsuits include water contamination from the spills in transport of the chemically-laced fracking fluid or the wastewater the drilling produces; methane leaks from poorly encased or cemented wells; and poorer air quality due to drilling emissions.

In the Dimock case, 23 families are asking the court to classify fracturing as inherently dangerous, a designation that may make it easier to win damages. The trial is set for April.

While the cases point to particular hazards of fracking, David Pursell, head of securities for Tudor, Pickering, Holt & Co. LLC, a Houston-based investment bank that concentrates on the energy industry, said the allegations are similar to those made against more conventional forms of drilling, such as contamination from surface spills or poorly encased wells.

He said he doesn't believe fracking poses unique risks.

"I think the science is clearly on the side of the industry guys," he said in an interview.

## Pavillion, Wyoming

The Environmental Protection Agency in December for the first time linked fracturing to water contamination in Pavillion, Wyoming. Encana Corp. (ECA), which owns 123 wells in the area, disputes EPA's findings, saying in a statement the agency ignored "well-known historical realities with respect to the Pavillion field's unique geology and hydrology."

While Pavillion drilling occurred at much shallower depths than seen in shale-rock formations, Keith Hall, a lawyer at Stone Pigman Walther Wittmann LLC in New Orleans, said in an interview that attorneys on both sides are watching the case to see if it proves to be the first instance that fracking itself, not just general drilling activities, created a problem.

The EPA has started providing fresh water to four Dimock families, and that it plans to test water at 60 homes to assess whether residents have been exposed to hazardous substances.

## **‘No Credible Evidence’**

In a Jan. 26 letter to EPA Administrator Lisa Jackson, Chief Executive Officer Dan Dinges said the company had provided more than 10,000 pages of data to the EPA and there is “no credible evidence” that the water needs further analysis by the federal agency.

Doctors at a fracking conference earlier this month recommended that the U.S. should declare a moratorium on hydraulic fracturing in populated areas until the health effects are better understood. That may spur more cases, said Hoffnagle of Providence, Rhode Island-based Edwards Wildman.

Any seemingly objective opinion that “demonstrates that fracking has or may have negative health effects will be beneficial to the plaintiff’s bar and would increase the number of lawsuits filed,” Hoffnagle said.

Fracking now accounts for a third of the U.S. gas supply, up from 14 percent in 2009, according to the U.S. Energy Department. Natural gas prices dropped 32 percent in 2011, driven primarily by the rise in recoveries from the shale formations, the department said.

## **Dimock’s Water**

The alleged risks of fracking are on display in Dimock, a town of 1,368 residents in the northeastern part of the state.

Fiorentino, 68, was at her daughter’s house for dinner on New Year’s Day when the well exploded. She wasn’t injured.

Under an agreement with state regulators, Cabot established a \$4.1 million fund that the 19 families with polluted wells could draw from. It didn’t accept blame for the contamination.

About \$1.9 million of the set aside by Cabot had been claimed, the company said earlier this month. Spokesman George Stark did not return a call for further comment on the litigation.

Fiorentino said she planned to take payment from the escrow account as she pursued additional damages in court. She believes her water is toxic and is “never going to drink” from the well again.

The Dimock case is Fiorentino v. Cabot Oil & Gas Corp. (COG), 09-02284, U.S. District Court for the Middle District of Pennsylvania (Scranton).

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